

Decision 04-08-052 August 19, 2004

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the Application of the
SOUTHERN CALIFORNIA WATER COMPANY
(U 133 W) for an order authorizing it to increase
rates for water service in 2004 in its Region 1
Customer Service Areas by \$179,200 or 2.62% in
the Arden-Cordova CSA; \$93,400 or 1.98% in the
Bay Point CSA; and \$115,900 or 4.55% in the Ojai
CSA; and various other relief.

Application 03-10-057
(Filed October 30, 2003)

INTERIM OPINION APPROVING STIPULATION

1. Summary

The Commission approves a settlement agreement entered into by Southern California Water Company (SCWC) and the Commission's Office of Ratepayer Advocates (ORA) that proposes a small rate increase in 2004 for three Region 1 customer service areas (Arden-Cordova, Bay Point, and Ojai) following a "mini" general rate case (GRC) review; permits requests, by advice letter, to amortize 2004 supply expenses for the other Region 1 customer service areas; addresses issues stemming from changes in the wholesale water supply costs in the Simi Valley customer service area; and defers issues concerning amortization of litigation costs attributable to the Arden-Cordova contamination litigation to a subsequent phase of this proceeding.

Table 1 shows the impact of today's decision on the average monthly bill in each customer service area in 2004. The data is taken from the bill impact

calculations prepared by the Commission's Water Division found in Attachment B to today's decision.

Table 1
Summary of Bill Increases for Typical Customers (2004)

Customer Service Area & Bill Type	Impact on Typical Bill	% Increase Over Present Rates
Arden-Cordova - 116 Ccf	\$1.74	2.70%
Arden-Cordova Flat rate	\$0.85	3.04%
Bay Point – 16 Ccf	\$0.77	1.14%
Ojai – 26 Ccf	\$3.84	6.63%
Ojai – 62 Ccf	\$6.44	7.14%

2. Background

This mini-GRC proceeding addresses SCWC's request for test year 2004 rate increases for three customer service areas located in its Region 1: Arden-Cordova, Bay Point, and Ojai. SCWC and ORA agreed to this mini-GRC in order to accommodate ORA's other workload in 2003 and defer the filing deadline for the full Region 1 GRC by one year, until January 2004. Thus, this single-year GRC spans the gap between the end of the prior GRC cycle and the new cycle beginning with test years 2005 and 2006. It also addresses 2004 supply expenses in the other Region 1 customer service areas.

SCWC is a Class A water utility and serves customers not only in this region, but also in other regions not at issue in this proceeding.¹ Arden-Cordova, Bay Point, and Ojai, the three Region 1 customer service areas at issue, are non-

¹ A Class A water utility is one with more than 10,000 service connections.

contiguous systems and all have separate water facilities. They are primarily residential with some commercial and industrial demand.

SCWC reports that as of December 2002, Arden-Cordova had somewhat fewer than 15,000 customers who were served by 25 wells; Bay Point had nearly 5,000 customers served by 3 wells; and Ojai had fewer than 3,000 customers and 5 wells.

The Commission established the current, base rates for Region 1 customer service areas in Decision (D.) 00-12-063 in 2000. Resolution W-4181, issued on February 3, 2002, established a memorandum account to record litigation costs associated with two water contamination lawsuits that concern Arden-Cordova.

3. Procedural History

By Resolution ALJ 176-3123 (November 13, 2003), the Commission preliminarily designated this application as a ratesetting proceeding and determined that hearings likely would be necessary. ORA filed a protest to the application on December 3, 2003. On December 19, the assigned administrative law judge (ALJ) held a prehearing conference, which both ORA and SCWC attended. Thereafter, on December 29, Assigned Commissioner Michael R. Peevey issued a scoping ruling, as required by Pub. Util. Code § 1701.1(b).² Among other things, the scoping ruling set hearings for April 13, 2004. By ruling on March 2 at the request of the parties, the ALJ subsequently revised the schedule and reset hearings for June 1.

² Unless otherwise indicated, all subsequent citations to sections refer to the Public Utilities Code and all subsequent citations to rules refer to the Rules of Practice and Procedure, which are codified at Chapter 1, Division 1 of Title 20 of the California Code of Regulations.

D.04-04-001 authorized SCWC to file advice letters to implement interim rates for 2004, under the authority of § 455.2. That statute permits an inflation adjustment to rates prior to issuance of a final decision in a GRC proceeding when the proceeding is not resolved by the beginning of the first test year (here, January 2004) and the utility is not responsible for the delay.

Prior to the June 1 hearing date, the parties advised the ALJ that they had stipulated to the settlement of all issues except the Arden-Cordova contamination litigation. The parties requested that the Commission consider the contamination litigation in a subsequent phase of this proceeding. The June 1 hearing date was continued to June 8 so that the parties might memorialize their agreement and on June 4, the parties filed a joint motion for adoption of the resulting document, entitled "Stipulation." Thereafter the ALJ determined that hearings on the Stipulation were not needed and with the consent of the parties, cancelled the hearings. By ruling on June 29, the ALJ granted the parties' joint motion for admission of their exhibits into evidence and on the same date, submitted this portion of the proceeding for decision.

4. Public Comment on the Application

Afternoon and evening public participation hearings (PPHs) were held in Arden-Cordova on March 17, 2004. Attendance was light, with four or five speakers at each session, including a member of the Rancho Cordova city council, who spoke in his private capacity. Many of the speakers raised issues about the water contamination litigation. In addition, the Commission has received letters and e-mail communications from customers in various locations in Region 1.

5. Settlement Criteria

The Stipulation is an uncontested “all-party” settlement with respect to the issues resolved. In such cases, the Commission applies two complementary standards to evaluate the proposed agreement. The first standard, set forth in Rule 51.1(e) and applicable to both contested and uncontested agreements, requires that the “settlement is reasonable in light of the whole record, consistent with law, and in the public interest.” The second standard, articulated in *San Diego Gas & Electric*, 46 CPUC 2d 538 (1992), applies to all-party settlements. As a precondition to approving such a settlement, the Commission must be satisfied that:

- a. The proposed all-party settlement commands the unanimous sponsorship of all active parties to the proceeding.
- b. The sponsoring parties are fairly representative of the affected interests.
- c. No settlement term contravenes statutory provisions or prior Commission decisions.
- d. Settlement documentation provides the Commission with sufficient information to permit it to discharge its future regulatory obligations with respect to the parties and their interests.

SCWC and ORA are the only parties to this proceeding and both are signatories to the Stipulation. Each party actively participated in all aspects of the proceeding, developing comprehensive prepared testimony and conducting discovery of the prepared testimony of the other. Settlement discussions did not commence until both parties’ positions were public. SCWC was represented by knowledgeable officers and employees and by counsel. ORA, whose mandate is

to represent ratepayer interests, likewise assigned knowledgeable staff and counsel. We conclude that the affected utility and ratepayers interests were fairly represented. Thus, the Stipulation meets the first and second criteria of the all-party settlement guidelines. We examine the third and fourth criteria and the Rule 51.1(e) standard below, in connection with our review of the Stipulation, itself.

6. Stipulation Overview

We have appended the entire Stipulation to this decision (see Attachment A). Exhibit A to the Stipulation is a summary of earnings estimate for each customer service area for 2004. It sets out, in dollars, each party's original position on major revenue requirement components and the parties' stipulated position. Exhibit B to the Stipulation is an estimate of the impact of the Stipulation on the typical bill in each customer service area.

We review the primary components of the Stipulation below.

6.1 Revenues

The Stipulation essentially limits this single-year revenue increase to an inflation adjustment, which is reasonable under the circumstances, since a comprehensive review of SCWC's Region 1 expenses has been deferred until the next, complete GRC cycle.

ORA and SCWC agree that, in principle, the latest rate of return and inflation rates should be used in calculating 2004 revenues in the Arden-Cordova, Bay Point, and Ojai customer service areas. The most recent rate of return for SCWC is 8.77%, adopted in D.04-03-039, and the parties have used this figure in their calculations. However, because using the most recent inflation rates would result in revenue increases for Arden-Cordova and Bay Point larger than the amounts in SCWC's application and the related public notices, the

parties agree that increases should be capped at the amounts SCWC has requested. For Ojai, the resulting revenue requirement is lower than the amount requested, and no cap is necessary.³

Table 2 compares the parties' initial positions on revenue requirement increases for 2004 with the stipulated position.

Table 2
Revenue Requirement Increases for 2004
(\$ thousand)

Customer Service Area	Utility Requested		ORA Recommended		Stipulation/ Adopted	
	\$	%	\$	%	\$	%
Arden-Cordova	\$ 179.2	2.62%	\$154.0	2.25%	\$179.2	2.62%
Bay Point	\$ 93.4	1.98%	\$ 82.0	1.73%	\$ 93.4	1.98%
Ojai	\$ 115.9	4.55%	\$103.6	4.07%	\$109.5	4.30%

For the other Region 1 customer service areas, the parties agree that SCWC should be authorized to extend eligibility to record and recover supply expenses and to amortize those expenses for the year 2004. Paragraph 1.01 of the Stipulation recommends the use of "memorandum-type" balancing accounts, with subsequent requests to amortize the balances filed by advice letter.

6.2 Simi Valley Purchased Water Memorandum Account

Changes in contracting practices by Calleguas Metropolitan Water District (Calleguas) raise this issue. Calleguas supplies water at wholesale to SCWC for resale to customers in SCWC's Simi Valley customer service area. The

³ The Stipulation explains that the compounding of the composite inflation factors is different for each customer service area (Arden-Cordova, two years; Bay Point, three years; and Ojai, one year) in order to bring the respective, most recent Commission-adopted expenses to 2004 levels.

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parties agree that SCWC should be authorized to establish a memorandum

account in which to record the incremental increase in costs of purchased water since it does not know what terms and conditions will be available to it from Calleguas at the time this decision issues.

In the past, SCWC has purchased water from Calleguas as needed and has paid the going tariffed rate. SCWC's Exhibit (Ex.) 1 reports that in 2003 Calleguas notified all of its customers that it would institute new purchase arrangements. Essentially, SCWC (and other wholesale customers) would be obliged to enter into a purchase order, which is a contract for a fixed quantity of water for a term of ten years at a price referred to as the "Tier 1 Supply Rate."⁴ This rate is a pass-through of the rate Calleguas must pay the Metropolitan Water District (MWD) to obtain the water. The price to customers who do not enter into such contracts would be the "Tier 2 Supply Rate," reported to be about twice as costly.

Recognizing that ten years is a relatively long time, SCWC states that it has attempted, without success, to negotiate with Calleguas for either a one-year or a three-year contract. SCWC's Ex. 1 suggests that the Commission grant memorandum account authority on an interim basis and review this matter more fully in the next, comprehensive GRC for Region 1. The Stipulation provides that SCWC may sign the ten-year contract if it is still available on the date today's decision becomes effective and that SCWC may record the new supply costs in the Simi Valley Purchased Water Memorandum Account. If the ten-year contract

⁴ A copy of the ten-year contract, entitled "Purchase Order of Imported Water Supply to be Provided by Calleguas Metropolitan Water District," is Attachment A to Exhibit 1 in this proceeding.

is not available, the Stipulation provides that SCWC may record the Tier-2 supply costs in the memorandum account.

On this record, it does not appear that SCWC has any other options for obtaining water supplies to serve customers in Simi Valley. Since the water supply costs are extremely uncertain and wholly within the control of Calleguas and MWD, memorandum account treatment is reasonable. However, we direct SCWC to provide an update on this issue in its 2005-2006 test year GRC for Region 1 (if necessary, in the form of supplemental prepared testimony) to (1) describe what arrangements it is able to make with Calleguas, whether the ten-year contract, one for some lesser term, or the Tier-2 rate agreement and (2) if the ten-year contract proves unavailable, to supply a statement from Calleguas to that effect, which also states when the ten-year contract offering expired.

6.3 Arden-Cordova Litigation Memorandum Account

Resolution No. W-4181, issued February 3, 2000, authorizes SCWC to establish the Arden-Cordova Litigation Memorandum Account to record costs associated with two water contamination lawsuits SCWC filed against (1) Aerojet General Corporation and Cordova Chemical Company and (2) the California Water Resources Control Board, Central Valley Region and the Department of Toxic Substances Control. Paragraph No. 3 of Resolution No. W-4181 provides:

SCWC shall file recovery/refund requests on a timely manner to avoid rate shock to its customers. No recovery of expenses shall be allowed for expenses incurred 36 months prior to the date of filing such requests.

In response to this requirement, SCWC's Ex. 1 proposes to amortize the remaining balance in the memorandum account—as of September 30, 2003, that sum was approximately \$15.8 million. At the PPHs in Arden-Cordova, SCWC announced that settlement of the Aerojet litigation appeared to be close,

as the litigants had signed a memorandum of understanding, and that the recovery anticipated likely would fully offset the utility's litigation expenses. However, Paragraph 3.01 of the Stipulation, executed some three months later, states that SCWC has not yet reached final settlement of both lawsuits and therefore, proposes to defer resolution of litigation issues to a second phase of this proceeding. Paragraph 3.02 lists some of the issues that should be considered in a second phase. Paragraph 3.04 proposes to extend the date for expiration of the memorandum account beyond January 1, 2005, so that the second phase can proceed.

We agree that it makes no sense to consider a rate increase to repay litigation costs if their recovery is at hand via a pending settlement. Thus, the status of this litigation persuades us to hold a second phase of this proceeding. Following a Phase 2 prehearing conference to discuss the issues listed in Paragraph 3.02 of the Stipulation, as well as any other relevant issues, the Assigned Commissioner will issue a scoping ruling, in accordance with § 1701.1(b). In order to permit sufficient time for resolution of Phase 2, we agree it is appropriate to extend the expiration date of the Arden-Cordova Litigation Memorandum Account by one year, until January 1, 2006.

6.4 Interim Rates

Implementation of the rates adopted in today's decision will require an adjustment of the current, interim rates to recover or refund the difference between them by surcharge or surcredit, as necessary. Under § 455.2(b), SCWC must adjust interim rates "upward or downward back to the interim rate effective date, consistent with the final rates adopted by the commission." SCWC should file advice letters for each customer service area to accomplish this reconciliation.

6.5 Compliance With Remaining Settlement Criteria

In Section 5 of today's decision, we determine that the Stipulation complies with the first and second all-party settlement criteria. After reviewing the Stipulation, itself, we find that it complies with the third and fourth criteria. With respect to the third, the parties represent that no term of the Stipulation contravenes any statutory provision or Commission decision and we are aware of no conflict. With respect to the fourth, our review indicates that the Stipulation provides the detail necessary to implement its terms during this GRC cycle and to discharge our future regulatory responsibilities. We conclude, on balance, that the Stipulation is reasonable in light of the record developed in this proceeding, that it is in the public interest, and that it should be approved. Thus, the Stipulation meets the conditions of Rule 51.1(e).

Attachment B to today's decision consists of Appendices A-D, all prepared by the Commission's Water Division. Attachment B reflects the ratemaking impact of the Stipulation. It includes a summary of earnings for 2004, the tariff revisions necessary to implement the new rates, itemization of the adopted quantities, comparisons showing the bill increase for an average meter (5/8-inch for Bay Point and Ojai; 1-inch for Arden-Cordova) at various consumption levels, and the calculation of income taxes for ratemaking purposes.

7. Assignment of Proceeding

Michael R. Peevey, the Commission's President, is the Assigned Commissioner in this proceeding and Jean Vieth is the assigned ALJ in this proceeding.

8. Comments on Draft Decision

At the request of the ALJ, the draft decision was filed with the Commission and served on the parties in order to permit comment and ensure the accuracy of the draft, even though a comment period is not required for uncontested water proceedings under § 311(g)(3). SCWC filed comments on August 9, 2004, and we have corrected two, minor typographical errors, as requested.

Findings of Fact

1. The Stipulation negotiated by SCWC and ORA resolves all issues between them in this proceeding with the exception of the Arden-Cordova contamination litigation.
2. SCWS and ORA are fairly reflective of the affected interests in this proceeding.
3. No term of the proposed Stipulation contravenes statutory provisions or prior Commission decisions.
4. The Stipulation conveys sufficient information to permit the Commission to discharge its future regulatory obligations with respect to the parties and their interests.
5. The proposed Stipulation is unopposed.
6. SCWC should provide an update in its 2005-2006 test year GRC for Region 1 (if necessary, in the form of supplemental prepared testimony) to (a) describe what arrangements it is able to make with Calleguas, whether the ten-year contract, one for some lesser term, or the Tier-2 rate agreement and (b) if the ten-year contract proves unavailable, to supply a statement from Calleguas to that effect, which also states when the ten-year contract offering expired.

7. The summaries of earnings presented in Attachment B, Appendix A; the quantities and calculations presented in Attachment B, Appendix D; all based on the Stipulation, are reasonable, justified, and sufficient for ratemaking purposes.

8. We should hold a Phase 2 of this proceeding to consider the Arden-Cordova contamination litigation. In order to permit resolution of Phase 2, we should extend the expiration of the Arden-Cordova Litigation Memorandum Account by one year, until January 1, 2006.

Conclusions of Law

1. The Stipulation is an uncontested settlement. The Stipulation is reasonable in consideration of the whole record, consistent with law, and in the public interest. The proposed settlement satisfies the requirements of Rule 51(e).

2. The Stipulation should be adopted.

3. The revised rates, and tariff rule revisions set forth in Attachment B, Appendices B and C, based on the parties' Stipulation, are justified.

4. This decision should be made effective immediately to enable SCWC to implement the Stipulation without delay.

INTERIM ORDER

IT IS ORDERED that:

1. The Joint Motion to Adopt Stipulation filed on June 4, 2004, by Southern California Water Company (SCWC) and the Office of Ratepayer Advocates is granted. The Stipulation attached to that motion and appended to this decision as Attachment A, is adopted. The ratemaking calculations and the tariff revisions, all in Attachment B, are approved.

2. SCWC is authorized to file, in accordance with General Order 96-A or its successor, and to make effective, on not less than five days' notice, tariffs

containing the test year 2004 increases consistent with the attachments to this decision, for three Region 1 customer service areas: Arden-Cordova, Bay Point, and Ojai. The revised rates shall apply to service rendered on and after the tariff's effective date. SCWC is authorized to record and recover supply expenses in memorandum-type balancing accounts for all other Region 1 customer service areas and to file advice letters to amortize those accounts for 2004.

3. SCWC is authorized to file an advice letter to recover or refund, over no less than one year, the difference between the interim rates authorized pursuant to Decision 04-04-001 and the rates authorized in this decision. The advice letter filing shall include all supporting data and calculations. The Commission's Water Division shall inform the Commission if it finds the proposed rate change does not comply with this decision or other Commission requirements.

4. If such contract is available on the date that this order is effective, SCWC may execute a supply contract with Calleguas Metropolitan Water District (Calleguas) that is materially consistent with the terms and conditions in the "Purchase Order of Imported Water Supply to be Provided by Calleguas Metropolitan Water District" that is Attachment A to Exhibit 1 in this proceeding. SCWC may record the new supply costs in the Simi Valley Purchased Water Memorandum Account. If such contract is no longer available, and if SCWC must obtain any necessary supply from Calleguas at Calleguas' Tier-2 supply costs, SCWC may record the incurred Tier-2 supply costs in the Simi Valley Purchased Water Memorandum Account.

5. SCWC shall provide an update on the status of its supply arrangements with Calleguas in its 2005-2006 test year general rate case for Region 1 (if necessary, in the form of supplemental prepared testimony) to (a) describe what

arrangements it is able to make with Calleguas, whether the ten-year contract, one for some lesser term, or the Tier-2 rate agreement and (b) if the ten-year

contract proves unavailable, supply a statement from Calleguas to that effect, which also states when the ten-year contract offering expired.

6. Following a Phase 2 prehearing conference to discuss the issues relevant to the Arden-Cordova contamination litigation, the Assigned Commissioner will issue a scoping ruling, in accordance with § 1701.1(b). In order to permit sufficient time for resolution of Phase 2, the expiration date of the Arden-Cordova Litigation Memorandum Account shall be extended by one year, until January 1, 2006.

This order is effective today.

Dated August 19, 2004, at San Francisco, California.

MICHAEL R. PEEVEY
President
CARL W. WOOD
LORETTA M. LYNCH
GEOFFREY F. BROWN
SUSAN P. KENNEDY
Commissioners